

### **REMARKS/ARGUMENTS**

Prior to entry of the present Amendment, claims 17-40 were pending in the application, with claims 1-16 having previously been cancelled. In the present Amendment, claims 17, 29, 30, 32, and 38 have been amended. No new matter has been added by this Amendment. After entry of this Amendment, claims 17-40 will be pending.

#### **Allowable Subject Matter**

Applicants gratefully acknowledge the Examiner's indication that claims 19-24 and 27-40 include allowable subject matter.

#### **Claim Rejections under 35 U.S.C. §112**

The Examiner rejected claims 17-40 under 35 U.S.C. § 112, second paragraph, as being indefinite.

With respect to claim 17, the Examiner has stated that the limitation "lateral sides" in line 6 has insufficient antecedent basis. Applicants have amended claim 17 to include proper antecedent basis for the term.

With respect to claims 29 and 30, the Examiner has stated that the limitation "its closed position" has insufficient antecedent basis. While Applicants disagree with the Examiner's position, Applicants have amended claims 17, 29 and 30 to include additional antecedent basis for the term.

With respect to claims 32 and 38, the Examiner has stated that the limitation "which pin" has insufficient antecedent basis. While Applicants disagree, Applicants have amended claims 32 and 38 to include additional antecedent basis for the term.

In view of the foregoing, Applicants respectfully submit that claims 17-40 are definite and respectfully request reconsideration of the rejections under 35 U.S.C. §112, second paragraph.

#### **Claim Rejections under 35 U.S.C. §102(b)**

The Examiner rejected claims 17-18 and 25-26 under 35 U.S.C. §102(b) as being anticipated by DE '035. Reconsideration of the rejections is respectfully requested.

Independent claim 17 defines convertible vehicle including a tensioning bow coupled to a rear side of the folding convertible top and pivotably supported on both lateral sides of the vehicle body, and a rear trunk lid pivotably supported on both lateral sides of the vehicle body, wherein a front side of the rear trunk lid is disposed in the vicinity of the tensioning bow when the rear trunk lid is in a closed position. Claim 17 specifies that the tensioning bow is moveable into an upwardly pivoted position during opening of the rear trunk lid or when the rear trunk lid is opened, so that the loading opening is enlarged.

In contrast, DE '035 discloses a convertible top 2, the rear side of which is directly attached to the rear trunk lid 9 (Fig. 6), so that, upon opening the rear trunk lid 9, at least the rear part portion of the convertible top 2 is correspondingly opened therewith (Figs. 3 and 4). More specifically, in DE '035, the trunk lid 9 is formed with a bent portion 17 to accommodate the cloth of the convertible top 2 which is surrounding a tensioning rope 18 by which the cloth may be fixedly tensioned to the trunk lid 9.

DE '035, which has been specified in the search report of the corresponding international application as an A-document and thus not relevant for the patentability of the application, fails to teach or suggest a tensioning bow, which is coupled to a rear side of the folding convertible top and is *pivotably supported* on both lateral sides of the vehicle body, as required in independent claim 17. Further, the claimed tensioning bow is moveable into an upwardly pivoted position during the opening of the rear trunk lid or when the rear trunk lid is opened. Therefore, the claimed tensioning bow is a member provided with its own pivots separately from the pivots of the rear trunk. As such, the convertible top of DE '035 fails to teach or suggest the subject matter as recited in independent claim 17.

For at least these independent reasons, independent claim 17 is allowable. Rejected dependent claims 18 and 25-26 and allowable dependent claims 19-24 and 27-40 depend from independent claim 17 and are allowable for at least the same independent reasons that claim 17 is allowable.

**CONCLUSION**

In view of the foregoing, entry of the present Amendment and allowance of claims 17-40 are respectfully requested.

The undersigned is available for telephone consultation during normal business hours at the below-identified telephone number.

Respectfully submitted,

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